

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MEGAN WHITE; JERONIMO
AGUILAR; LOREN WAYNE KIDD,
LYRIC NASH; NICOLLETTE JONES;
and ODETTE ZAPATA,

Plaintiffs,

v.

SACRAMENTO POLICE DEPARTMENT;
THE CITY OF SACRAMENTO;
DANIEL HAHN; and DOES 1-200
(the names and numbers of
which are currently unknown),

Defendants.

No. 2:21-cv-02211-JAM-SCR

**ORDER GRANTING IN PART
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT**

Before the Court is Defendants' motion for summary judgment as to Plaintiff Loren Wayne Kidd's claim for failure to accommodate. See Mot., ECF No. 78. The Court previously heard and ruled on Defendants' motion for summary judgment as to other claims. See Minute Order, ECF No. 92. At the hearing, the Court requested supplemental briefs regarding Kidd's claim which the parties submitted. See Plaintiffs' Supplemental Brief, ECF No. 93; Defendants' Supplemental Brief, ECF No. 94. For the following reasons, the Court GRANTS Defendants' motion as to

1 Kidd's claim.

2 Defendants argue that because Kidd's only requested
3 accommodation during his arrest was for marijuana, he cannot
4 present a claim under the Americans with Disabilities Act
5 ("ADA"). See Defendants' Supplemental Brief at 2. Kidd presents
6 four arguments as to why Defendants' motion should be denied: (1)
7 Kidd was denied access to his medication, marijuana; (2) Kidd's
8 restraints were not adjusted; (3) police did not expedite its
9 review of body cam footage; and (4) police did not provide Kidd
10 with his requested transportation upon his release from custody.
11 See Plaintiffs' Supplemental Brief at 1-5. None of these
12 arguments present a genuine dispute of material fact.

13 First, the Ninth Circuit has foreclosed Kidd's claim for
14 being denied access to marijuana. The James court concluded, "We
15 hold that doctor-recommended marijuana use permitted by state
16 law, but prohibited by federal law, is an illegal use of drugs
17 for purposes of the ADA, and that the plaintiffs' federally
18 proscribed medical marijuana use therefore brings them within the
19 ADA's illegal drug exclusion." James v. City of Costa Mesa, 700
20 F.3d 394, 405 (9th Cir. 2012). Kidd attempts to distinguish
21 James by citing a footnote in the Court's opinion that stated,
22 "We do not hold, as the dissent states, that 'medical marijuana
23 users are not protected by the ADA in any circumstance.' We hold
24 instead that the ADA does not protect medical marijuana users who
25 claim to face discrimination on the basis of their marijuana
26 use." Id. at 394 n.3. In this footnote, the court goes on to
27 explain that an individual who has a disability is not denied
28 protection under the ADA for that disability simply because they

1 use an illegal drug. See id. Thus, Kidd argues that James is
2 inapposite because he faced discrimination on the basis of his
3 epilepsy, not his marijuana use. The Court disagrees.

4 Kidd does not explain how the police's refusal to provide him
5 access to marijuana was not based on his marijuana use. To do
6 so, he seemingly would have to show that police provided access
7 to marijuana to other individuals in custody. Put simply, there
8 is no showing that police refused because Kidd is epileptic
9 instead of the more plausible explanation that police refused
10 because marijuana is an illegal substance under federal law. In
11 addition to the James holding, courts across the nation that
12 "have considered ADA claims for failure to accommodate medical
13 marijuana use have relied on the [Controlled Substances Act's]
14 classification of marijuana as a Schedule I illegal substance to
15 conclude that 'using marijuana is not a reasonable
16 accommodation.'" Eccleston v. City of Waterbury, No. 3:19-CV-
17 1614 (SRU), 2021 WL 1090754, at *8 (D. Conn. Mar. 22, 2021)
18 (collecting cases).

19 Second, police did not fail to provide a reasonable
20 accommodation in adjusting Kidd's restraints. Kidd relies on two
21 cases, both of which dealt with a motion to dismiss. See
22 Plaintiffs' Supplemental Brief at 3. This dispositional stage
23 demands a higher burden. Kidd fails to explain how his
24 complaints of shoulder pain are related to his epilepsy other
25 than he sustained similar injuries during a prior seizure. Kidd
26 also does not cite any caselaw explaining how adjusting his
27 restraints was a reasonable accommodation for his epilepsy.

28 Third, police did not fail to provide a reasonable

1 accommodation in reviewing the body cam footage. As an initial
2 matter, Kidd fails to show that police did not expedite the
3 review process. Instead, he simply states it took "hours." See
4 id. at 4. Kidd presents no evidence that allows the court to
5 compare the review process in this case to other review
6 procedures, which means Kidd has not raised a genuine dispute.
7 Also, Kidd presents a wide range of cases regarding matters that
8 are not relevant to this case, such as de-escalation procedures.
9 See id. He does not present caselaw establishing that police
10 have to expedite its review of footage for an epileptic
11 individual.

12 Finally, police did not fail to provide a reasonable
13 accommodation when they released Kidd from custody. The only
14 case Kidd presents is inapposite. In Gorman, the Eighth Circuit
15 heard a case in which the plaintiff claimed that police failed to
16 provide reasonable accommodations after he was arrested and while
17 being transported in custody. See Gorman v. Bartch, 152 F.3d
18 907, 910 (8th Cir. 1998) (Plaintiff "claimed that the manner of
19 his post-arrest handling and transportation evidenced unlawful
20 discrimination by all the defendants, including [officer] who
21 drove the police van that took him to the station"). Here, Kidd
22 claims that police failed to provide him "with appropriate
23 accommodations upon his release from custody." See Plaintiffs'
24 Supplemental Brief at 5 (emphasis added). Kidd does not cite any
25 other caselaw suggesting that he can state a claim for an
26 accommodation after his release from custody.


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1 As such, the Court GRANTS Defendants' motion for summary
2 judgment as to Plaintiff Kidd's claim for failure to accommodate.

3 IT IS SO ORDERED.

4 Dated: January 7, 2025

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7 JOHN A. MENDEZ
8 SENIOR UNITED STATES DISTRICT JUDGE
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